IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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C.W.P NO. 16448 OF 2006

Date of decision : November 09, 2006

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M/s Baba Jai Ram Industry & others .....Petitioners

Vs.

State of Punjab & othes .....Respondents

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CORAM: HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S BHALLA

Present: Mr. G.C Dhuriwala, Advocate for the petitioner(s).
Mr. Sukhdip Singh Brar, Additional Advocate General,
Punjab for respondents no. 1, 2, 5 and 12.
Mr. Munishwar Puri, Advocate for respondent no.3.
Mr. Somesh Gupta, Advocate for respondent no.6.
Mr. Manish Jain, Advocate for respondent no.7.
Mr. Rakesh Garg, Advocate for respondents no. 9 to 11.

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Viney Mittal, J. (Oral)

The petitioners have approached this Court for issuance of directions to respondents no. 1 to 8 not to store the paddy in the premises of the mills of respondents no. 9 to 11. It has been maintained that respondents no. 9 to 11 were not having the electricity connection as on

October 1, 2006 which was one of the primary conditions of the policy dated September 15, 2006 (Annexure P-1) as per clause 6 (j).

The claim of the petitioners has been contested by the respondents.

Separate written statements have been filed on behalf of respondents no. 1, 2, 5 & 12 and respondents no. 9 to 11.

Official respondents no. 1, 2, 5 and 12 have taken a preliminary objection no.3 in the following terms:

> 3. *That the State Government every year issue a policy for custom milling of paddy by the Rice Millers of the State. Only those rice millers are allotted contract for milling of paddy who are clear in all respect and non-defaulter as per conditions laid down in the said policy. The allotment of shellers is made by a committee headed by the Deputy Director (Field) of the Division and all the District Managers are the members of this Committee. The custom milling policy for the kharif milling seasons 2006-07 was issued on 15.9.2006 (Annexure P-1). Accordingly allotment of shellers was made by the committee on 7.10,2006. The rice mills of petitioners were allotted for milling vide letter dated 10.10.2006 (Annexure P-2). No paddy was stored with the respondent no.9 to 11 by the answering respondents as it was a basic condition of the policy Annexure P-1 in Clause 6(j) that the procuring agency will not store paddy in such mills where there is no electricity connection ready on 1.10.2006 even if the mill is allotted. Therefore, there is no legal violation by the answering respondents and the petitioners writ petition requires to be dismissed as against the answering respondents.*

Mr. Sukhdip Singh Brar, learned Additional Advocate General, Punjab, on the basis of the aforesaid preliminary objection has maintained that no paddy allotted to the private respondents prior to the release of the electricity connection was permitted to be stored by respondents no. 9 to 11 before the electricity connection was received. This fact is seriously disputed by Sh. G.C Dhuriwala, learned counsel for the petitioner. Sh. Dhuriwala has maintained that the allotment of paddy to respondnets no. 9 to 11 and permitting them to store the paddy prior to the connection of electricity is against the terms and conditions.

In the written statement filed on behalf of the respondents no. 9 to 11, the claim of the petitioners has again been contested. The said respondents have further pleaded facts to claim that even the petitioners are not entitled to allotment/storage of paddy since they also do not fulfill the eligibiity conditions.

After hearing the learned counsel for the parties and taking into consideration the divergent stand taken by the parties, we deem it appropriate that the controversy in the question is examined by the Director, Food & Civil Supplies and Consumer Affairs, Punjab, Sector 17, Chandigarh-respondent no.2.

Consequently, we dispose of the present petition with a direction to the Director-respondent no.2 to look into the grievances made by the petitioners and the pleas raised on behalf of the private respondents and other procurement agencies.

For the aforesaid purposes, the procurement agencies as well as the private respondents shall file their written submissions within a period of 2 weeks from the date a certified copy of this order is received before respondent no.2. On the receipt of the aforesaid written submissions, the Director shall take into consideration the said pleas and shall pass a detailed and speaking order after affording an opportunity of hearing to the representative of the petitioner and the representative of the private respondents as well as the procurement agencies. It shall be appreciated if a final decision, and such further action as may be required, is taken in accordance with law in this regard by the Director within a period of two weeks of the filing of the written submissions.

A copy of the order be given dasti on payment of the usual charges.

(VINEY MITTAL)
JUDGE

November 09, 2006
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(H.S BHALLA)
JUDGE